

**DEPARTMENT OF TOXIC SUBSTANCES CONTROL
HAZARDOUS WASTE MANAGEMENT PROGRAM
POLICY AND PROCEDURE**

POLICY AND PROCEDURE: EO-02-002 PP (Supersedes OPP#88-9)

TITLE: Implementing Quarantine Authority

AFFECTED PROGRAMS: Hazardous Waste Management Program, Site Mitigation Program, Office of Legal Counsel and Criminal Investigations

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I. PURPOSE

This document sets forth DTSC's policy and procedure for implementing the quarantine authority for hazardous wastes pursuant to Health and Safety Code section 25187.6.

II. AUTHORITY

Health and Safety Code section 25187.6 (see Attachment A) authorizes agents of DTSC to quarantine any hazardous waste or material reasonably believed to be hazardous waste, if the agent has probable cause to believe the waste or material is being stored, transported, disposed of, or handled in violation of hazardous waste laws and in such a way as to threaten public health and safety or the environment.

III. POLICY

The quarantine authority shall be implemented when it is to the benefit of public health and the environment, and when the situation meets the following statutory requirements specified in Health and Safety Code section 25187.6:

1. The authorized agent reasonably believes that the material in question is a hazardous waste;
2. The authorized agent reasonably believes that such waste is being stored, transported, disposed or otherwise handled in violation of chapter 6.5, division 20, Health and Safety Code; and
3. The violation may threaten public health and safety or the environment.

If all three of these conditions exist, the quarantine authority may be exercised in accordance with procedures set forth in this document. If any one of these conditions does not exist, the quarantine authority cannot be exercised. Where feasible, the authorized agent shall confirm with his/her supervisor that all of these requisite elements exist before issuing a quarantine order.

Affixing the completed quarantine label [DTSC 1102] to a container or vehicle constitutes issuance of the quarantine order.

In most instances, the authorized agent will be a Hazardous Waste Management Program (HWMP), Statewide Compliance Division (SCD) inspector; however, any of DTSC's technical or enforcement staff may issue a quarantine order.

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IV. ROLES AND RESPONSIBILITIES

A. Authorized agent:

1. Ensures that the situation meets the requirements of the statute for issuing the quarantine order and documents all circumstances and activities relevant to issuing the quarantine order. Documentation may include a complete inspection report with copies of the Notice of Quarantine [DTSC 1103] (see Attachment B), the Log of Materials Quarantined (see Attachment C), photographs of the quarantined material, sampling data, and any other relevant information. Such documentation is required for the files and may be presented at a hearing. Where feasible, the authorized agent shall confirm with his/her supervisor that all necessary [or prerequisite] conditions exist before issuing a quarantine order.
2. Completes the quarantine label [DTSC 1102] (see Attachment D) before placement onto a container or vehicle, issues a completed Notice of Quarantine to each respondent or each respondent's representative, and follows all other applicable requirements in this document.
3. Immediately notifies his/her supervisor of the issuance of the order and of any request for a hearing on the validity of the order. If the supervisor is not available, another supervisor or the Branch Chief should be notified. Hearing requests may be made verbally or in writing. The hearing must be held within 24 hours after the request is received.
4. Ensures that the violation is corrected and that the threat is mitigated within 30 days of issuing the quarantine order. Proper resolution will generally consist of abating the potential threat to public health and safety or the environment. Such actions may include having the respondent(s) repackage leaking containers, repair leaking valves or piping, properly segregate incompatible materials, properly identify previously unidentified materials, or ensure that wastes will be properly transported to an approved facility. Proper resolution of the situation must be reached with the concurrence of the authorized agent's supervisor and, as appropriate, other units in DTSC or other regulatory agencies.

B. Authorized agent's supervisor:

Ensures that a hearing, if requested, is held within 24 hours of receipt of the request, and notifies the respondent(s) by telephone, courier or in person, of the time and location of the hearing as soon as they are established. Where feasible, consults with authorized agent on whether required elements exist before issuing a quarantine order. Scheduling of the hearing includes

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arranging for a designated hearing officer to be present and proper facilities and equipment for the hearing. Proper facilities and equipment may include an adequate room, a working tape recorder, and an adequate supply of tapes.

C. Hearing Officer:

1. Sets a time and place for the hearing. The hearing must be held within 24 hours of the hearing request;
2. Conducts the hearing pursuant to the hearing procedures set forth in Section VII of this document; and
3. Prepares a written statement on the determination of validity of the quarantine order and mails a copy to the respondent(s) via certified mail within five working days of the hearing (see Attachment E).

The hearing officer should be a neutral party, not the authorized agent's supervisor or Branch Chief. The hearing officer should not have participated in discussions or decisions leading up to the issuance of the quarantine order.

D. Task Force Support and Special Investigation Branch and HWMP Senior Hazardous Substances Scientist, Supervising Hazardous Substances Scientist I and II, Supervising Hazardous Substances Engineer I and II, Supervising Criminal Investigator, Division Chief, Deputy Director, or Chief Deputy Director:

Acts as hearing officer or appoints a hearing officer pursuant to Management Memo: #EO-02-001-MM (Authority to Conduct Permit and Enforcement Actions), to conduct a hearing on the validity of a quarantine order when such a hearing is requested.

V. FIELD PROCEDURES

A. General:

A quarantine label [DTSC 1102] shall be properly completed and attached to each container, or vehicle transporting the hazardous waste that is to be quarantined. If the peel and stick label will not adhere properly, it is acceptable to place the label on a tag and affix it to the container or vehicle that is to be quarantined. Affixing the

completed quarantine label to a container or vehicle constitutes issuance of the quarantine order.

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B. Quarantine Labels:

The quarantine label [DTSC 1102] shall be completed as follows:

Date: The date the quarantine order is issued.

Number: The number is unique to a specific container or vehicle (each label). A numbering system similar to that used for samples taken will suffice. Samples taken from a container or vehicle should be assigned the same number as the quarantine order, adding additional and subsequential digits for multiple samples.

Material: A brief description of the nature of the material. If a more detailed description is needed, it should be included in the Log of Materials Quarantined.

Amount: Estimated amount of material in the container or vehicle. This information may come from available documents (e.g., manifests, bills of lading, tank logs) or be an estimate by the agent or respondent(s). Include units of measure (gallons, cubic yards, drums, etc.).

Located at: Location where the material will be quarantined. For materials in transit, the agent may select the location where the waste will be stored or held, and enter that location on the quarantine order. The authorized agent should ensure that the material reaches the specified location, which could be done by calling the specified facility or following the vehicle to the specified location.

Authorized agent: The authorized agent should enter his/her name and a telephone number where he/she can be reached. This may be the authorized agent's direct line or the section office's general number.

The materials to be quarantined should be separated from other materials, if feasible. The authorized agent should attempt to seal containers with evidence tape or take other measures to readily identify tampering. For example, evidence tape may be placed across the edges of lids and/or bungs of drums.

C. Quarantine Log:

After the quarantine labels have been attached to all containers and/or vehicles as appropriate, the authorized agent shall complete a Log of Materials Quarantined or otherwise record the pertinent information. This shall include listing the number on the quarantine label for each container and/or vehicle and recording a description of that container and/or vehicle. For vehicles, the license number or other prominent markings or numbers, and name and address of the registered owner should be

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obtained. This description should be detailed enough to easily identify each container or vehicle. Use additional pages as needed.

Photographs should be taken, and supported by a photo log, of all quarantined materials after placement of labels. The authorized agent should also consider sampling the quarantined material to be certain of its composition.

The authorized agent shall determine the identity of the respondent(s). The respondent is the person who owns the hazardous waste, or the owner or lessee of the vehicle in which the waste is being transported. Questions about who the respondent(s) is/are should be directed to the authorized agent's supervisor and/or Office of Legal Counsel and Criminal Investigations (OLCCI).

D. Notice of Quarantine:

The authorized agent shall complete a Notice of Quarantine (Notice), [DTSC 1103], for issuance to the respondent(s).

The agent should obtain the name, position/title, and any other identifying information from the person to whom the Notice is delivered. For vehicles, information about the driver (name, address, and driver's license number) should be obtained.

The Notice (see Attachment B) must be completed by filling in the required information in the appropriate areas of the form as discussed below:

Respondent(s): The respondent is the owner of the waste, or the owner or lessee of the vehicle in which the waste is being transported. Enter the name, address, and identification number (if applicable) of the respondent.

Items 1 and 2: No additional information.

Item 3: Insert the location where the waste is being handled. Insert the facts explaining why the waste is a hazardous waste, and how the waste is being handled in violation of chapter 6.5 of division 20 of the Health and Safety Code.

Item 4: Explain the nature of the threat to public health and safety or the environment.

Item 5: Insert the name, address, and telephone number of the authorized agent.

Item 6: This section is optional. If the waste is in transit at the time of quarantine, or if there is reason to believe that the quarantine order will be violated, the

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authorized agent may direct that the waste be transported to another location (see below). Insert the location where the waste is to be transported, including any special storage and/or safety instructions. The hazardous waste should be stored or held at one of the following locations, which the authorized agent determines will represent the least risk to the public health and safety or the environment:

1. The facility owned or operated by the producer of the waste, except when the producer is located outside the State;
2. The transporter's yard, facility, or terminal, except when located outside the State;
3. The treatment, storage, or disposal facility to which the hazardous waste is being transported, except when located outside the State; or
4. Any other appropriate site designated by the authorized agent.

Signatures: The authorized agent must date and sign the form and then obtain the signature of the person to whom the Notice is issued. This should be the owner of the waste, the owner or lessee of the vehicle in which the waste is being transported, or a representative of one of the above. If the person to whom the Notice is issued refuses to sign the Notice, the authorized agent must make a note of the refusal in the notes and/or on the Notice.

If the Notice is issued to a representative of a company or facility, that representative should be the highest ranking facility representative available, or the driver of the vehicle. The signature of the respondent only acknowledges receipt of the Notice and is not an admission of guilt or liability.

After the Notice has been completed and signed by the respondent or his/her representative, copies should be dispensed as follows:

- C First copy (white) containing the original signatures is attached to the inspection or investigation report.
- C Second copy (yellow) is given to the authorized agent's supervisor.
- C Third copy (pink) is left with the respondent or his/her representative.

The authorized agent shall accompany the waste to the location where it is to be stored or held, or shall take other actions to ensure the waste arrives at the selected location.

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DTSC may move the waste only if the situation constitutes an emergency, and emergency response funds can be approved for that action. If the situation constitutes an emergency, the authorized agent should contact his/her supervisor, Branch Chief, and/or the Site Mitigation Program's Emergency Response and Statewide Operations Division.

VI. HEARING REQUESTS

The respondent may request a hearing to determine the validity of the quarantine order. The authorized agent, or any other DTSC representative receiving a request for a hearing, shall immediately notify his/her supervisor of the request. The person receiving the request for a hearing shall document the date and time the request for a hearing is received, and the name, phone number, address and position/title of the person who has made the request. This information shall be immediately forwarded to the authorized agent's supervisor, who is then responsible for arranging the hearing.

The authorized agent's supervisor shall identify a hearing officer by contacting a Task Force Support and Special Investigations Branch or HWMP Senior Hazardous Substances Scientist, Supervising Hazardous Substances Scientist I or II, Supervising Hazardous Substances Engineer I or II, Supervising Criminal Investigator, Division Chief, Deputy Director, or Chief Deputy Director. Any of those persons may act as a hearing officer, or may appoint a hearing officer, pursuant to Management Memo: #EO-02-001-MM (Authority to Conduct Permit and Enforcement Actions).

The hearing officer shall work with the authorized agent's supervisor to set a time and place for the hearing, and shall notify the requestor by telephone, courier, or in person, of the scheduling. The hearing must be held within 24 hours of the hearing request.

VII. HEARING PROCEDURES

The hearing is conducted in the following manner:

1. The hearing officer opens the hearing by explaining the purpose and procedures for the hearing. The purpose of the hearing is to determine the validity of the quarantine order. This is the only purpose for the hearing, and other matters will not be discussed during the hearing;
2. The hearing officer may tape record the hearing and must document the proceedings in writing;
3. Each party must identify himself/herself for the hearing record. Anyone interested in the quarantine order may attend. The authorized agent and

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his/her supervisor should always attend;

4. The authorized agent presents the rationale for the quarantine order and provides all available supporting information;
5. The hearing is informal. The respondent may provide whatever information he/she wishes and may be represented by an attorney;
6. At any time during the proceeding, the hearing officer may question any participant in the hearing;
7. After considering the information presented, the hearing officer shall make a determination on the validity of the quarantine order. This determination must be made on the day of the hearing. The hearing is adjourned once this determination is made;
8. The hearing officer shall prepare a written statement of the determination and mail a copy to the respondent by certified mail within five working days of the hearing; and
9. The complete record of the hearing, consisting of the statement of determination, the tape recording (if applicable), copies of all documents presented, and all other information related to the hearing, shall be placed in the respondent's enforcement case file.

If the quarantine order is determined to be valid, the order shall stand and DTSC shall pursue appropriate resolution of the situation. If the order is determined to be invalid, it shall be removed immediately.

VIII. CRITERIA FOR REMOVAL OF QUARANTINE ORDERS

Quarantine orders issued under this authority may be removed in one of four ways:

1. The order is automatically removed 30 days after issuance;
2. The order may be removed by the hearing officer. This should be documented as noted above in the Hearing Procedures Section;
3. The order may be removed by any authorized agent upon proper resolution of the original situation, or upon discovery that the situation does not meet, or no longer meets, the statutory requirements for issuing the order. When this is done, that agent must document the reasons and/or actions leading to removal of the order in a memorandum to the file. If the agent removing the order is not the authorized agent who issued the order, the concurrence of a

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supervisor is required. The authorized agent must be notified of the order removal as soon as possible; and

4. The order may be removed by a court. Questions on this aspect of order removal should be directed to OLCCI.

IX. REISSUING QUARANTINE ORDERS

If the disposition of the waste has not been resolved after 30 days, re-issuance of the quarantine order may be warranted.

CONTACT:

Hazardous Waste Management Program
Statewide Compliance Division
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806
(916) 322-0349 (916) 324-7193

OR Loretta M. Ransom
(916) 324-2437
lransom@dtsc.ca.gov

This policy and procedure is intended to provide guidance on implementing quarantine authority. However, the policy and procedure does not replace or supersede relevant statutes and regulations. The information contained in this policy and procedure is based upon the statutes and regulations in effect as of the date the policy and procedure was signed. Interested parties are advised to keep apprised of subsequent changes to relevant statutes and regulations.

This policy and procedure expires five years from the date of signature.

April 8, 2002 _____
Date

[original signed by Edwin F. Lowry] _____
Edwin F. Lowry
Director
Department of Toxic Substances Control

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Attachment A: Health & Safety Code section 25187.6.

25187.6. (a) If an authorized agent of the department has probable cause to believe that any hazardous waste, or any material which the authorized agent reasonably believes to be a hazardous waste, is stored, transported, disposed of, or handled in violation of this chapter or in a manner that will constitute a violation of this chapter, and that the violation may threaten public health and safety, or the environment, the agent may issue an order of quarantine by affixing a tag or other appropriate marking to the container containing, or to the vehicle transporting, the hazardous waste.

(b) Upon issuing an order of quarantine pursuant to subdivision (a), the authorized agent shall notify the person who owns the hazardous waste, or the owner or lessee of the vehicle in which the wastes are transported, of all of the following:

(1) The hazardous waste has been subject to a quarantine order because the hazardous waste is, or is suspected of being, stored, transported, disposed of, or handled in violation of this chapter.

(2) No person shall remove, transfer, or dispose of the hazardous waste until permission for removal, transfer, or disposal is given by an authorized agent of the department or by a court.

(3) The person so notified may request, and shall be granted, an immediate hearing before a person designated by the director to review the validity of the authorized agent's order. For purposes of this section, an immediate hearing shall be held within 24 hours after a hearing is requested by the person subject to the order.

(c) Any order of quarantine issued pursuant to subdivision (a) shall take effect upon issuance and shall remain effective for 30 days thereafter, until an authorized agent removes the quarantine order pursuant to subdivision (d), or until the quarantine order is revoked pursuant to a hearing conducted in accordance with paragraph (3) of subdivision (b), whichever event occurs first.

(d) If an authorized agent of the department determines that a hazardous waste subject to a quarantine order is not being stored, handled, transported, or disposed of in violation of this chapter, or does not threaten public health and safety or the environment, the authorized agent shall revoke the order of quarantine.

(e) If an authorized agent of the department has probable cause to believe that a hazardous waste subject to a quarantine order will, or is likely to, be removed, transferred or disposed of in violation of this section, the authorized agent may remove the hazardous waste to a place of safekeeping.

(f) A hazardous waste in transit for which a quarantine order has been issued pursuant to subdivision (a) shall be stored or held at one of the following locations, which the authorized agent determines will represent the least risk to the public health and safety or the environment:

(1) The facility owned or operated by the producer of the waste, except when the producer is located outside the State.

(2) The transporter's yard, facility, or terminal.

(3) The treatment, storage, or disposal facility to which the hazardous waste is to be transported.

(4) Any other site designated by the authorized agent.

(g) All fees for storage and any other expenses incurred in carrying out subdivision (e) or (f) shall be a charge against the person who owns the hazardous waste or the owner or lessee of the vehicle in which the wastes are transported.

(h) For purposes of this section, "authorized agent of the department" includes any representative of a local officer or agency authorized to enforce this chapter pursuant to subdivision (a) of Section 25180.

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State of California-California Environmental Protection Agency

Department of Toxic Substances Control

RESPONDENT: _____)
_____)
_____)
_____)
_____)

NOTICE OF QUARANTINE

Health and Safety Code
Section 25187.6

1. NO PERSON SHALL REMOVE, TRANSFER, OR DISPOSE OF THE HAZARDOUS WASTES SUBJECT TO THE AFFIXED ORDER TAGS (YELLOW AND RED QUARANTINE LABELS) OR AS OTHERWISE MARKED UNTIL PERMISSION FOR REMOVAL, TRANSFER OR DISPOSAL IS GIVEN BY AN AUTHORIZED AGENT OF THE CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES CONTROL (hereinafter the Department) OR BY A COURT OF COMPETENT JURISDICTION.
2. This quarantine takes effect upon issuance and remains effective for 30 days, until an authorized agent of the Department removes the quarantine or until the quarantine is revoked pursuant to a hearing as further explained below.
3. The Department finds that hazardous waste or material believed to be hazardous waste located at _____
is, or is suspected of being stored, transported, disposed of or handled in violation of chapter 6.5 of division 20 of the Health and Safety Code or in a manner that will constitute a violation of this chapter in that: _____

4. There is a threat to the public health and safety, or to the environment, because: _____

5. The owner of the quarantined waste or the owner or lessee of the vehicle in which the waste is located may request an immediate hearing, which will be held within 24 hours, before a person designated by the department to review the validity of the quarantine. Contact _____
_____ to request such a hearing.
6. *(Optional)* The hazardous waste that is the subject of the Quarantine shall immediately be transported to and held at the following location which the authorized agent has determined will represent the least risk to public health and safety or the environment: _____

All fees for removal, storage and any other expenses incurred in carrying out activities pursuant to this quarantine shall be paid by the person who owns the waste or the owner or lessee of the vehicle in which the waste is located.

Signature of Issuing Agent	Printed name	Date
<hr/>		
I hereby acknowledge receipt of this Notice of Quarantine DTSC 1103 (___/02)	Printed name	Date

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Attachment C: Log of Materials Quarantined

Log of Materials Quarantined

Date_____	Authorized Agent_____
Site_____	Owner of Waste_____
_____	_____
_____	_____

Quarantine Tag #

Description of Material Quarantined

Attachment D: Quarantine Label

State of California – California Environmental Protection Agency

Department of Toxic Substances Control

QUARANTINED

*Under Authority of Division 20, Chapter 6.5, Section 25187.6 of the
CALIFORNIA HEALTH AND SAFETY CODE*

WARNING: This material may not be removed or disposed of until permission is given by an authorized agent of the Department of Toxic Substances Control or by a court.

DEPARTMENT OF TOXIC SUBSTANCES CONTROL
1001 I Street
P.O. Box 806
Sacramento, California 95812-0806

Date_____ No._____
Material_____ Amount_____
Located at_____
Authorized Agency_____

If this item is found at a location other than the address listed above, please notify the Department of Toxic Substances Control at 1-800-698-6942.

DTSC 1102 (___/02)



Department of Toxic Substances Control



Winston H. Hickox
Agency Secretary
California Environmental
Protection Agency

Edwin F. Lowry, Director
1001 "I" Street, 25th Floor
P.O. Box 806
Sacramento, California 95812-0806

Gray Davis
Governor

Attachment E: Sample Letter on Validity of Quarantine Order

October 13, 2001

Mr. John Doe
Clean USA
1234 American Drive
Sacramento, California 98765

CERTIFIED MAIL NO: Q987 123 654

Dear Mr. Doe:

The purpose of this letter is to transmit my decision as to the validity of a quarantine order.

On October 12, 2001, at 4:10 p.m., I served as the hearing officer at a hearing that you requested at approximately 11:00 a.m. on October 12, 2001. You requested this hearing to determine the validity of a quarantine order that was issued on October 12, 2001 to A.B. and Sons, Clean USA and ABC Disposal at 1234 American Drive, Sacramento, California. The items quarantined were a truck rented from Cal Rent-a-Truck, license number 7C65412, and its contents of sixteen drums of TCE waste, and a truck, license number 6B54334, and its contents of six drums of TCE waste. The quarantine notice stated that the transporters lacked registrations as hazardous waste haulers.

I uphold the validity of the quarantine because Clean USA violated California Health and Safety Code 25163(a)(1) in that Clean USA respondents transported hazardous waste in a vehicle without holding a valid registration issued by the Department of Toxic Substances Control to transport hazardous waste. This is a threat to the public health and safety or the environment because there would be no assurance that the waste could be safely shipped to an authorized facility.

Sincerely,

Jane Q. Smith, Chief
Northern California Branch
State Regulatory Programs Division

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at www.dtsc.ca.gov.